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Garth Whelen
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Calgary, Alberta
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Mail Stop PCT, **Commissioner for Patents**
Office of PCT Legal Administration
P.O. Box 1450
Alexandria, Virginia 22313-1450

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OCT 20 2005
OFFICE OF PETITIONS

Re: Renewed Petition Under 37 CFR 1.137(b). U.S. Application No. 10/509,489.


Dear Examiner - Leonard Smith:

In response to your decision dated 13 September 2005, received by letter 5 October 2005, I have hereby included the correct form for filing a Petition For Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137 (b), and the following timeline explaining the unintentional nature of the delays:

- 05 September 2004, the thirty month period for paying the basic fee for national stage filing in the United States expired at midnight, the applicant believed the expiration date to be 30 September 2004, and was working diligently to earn the required filing fee before that time therefore being unintentionally late.
- 29 September 2004, a declaration for entry into the national stage in the United States was filed via transmittal letter and the \$460.00 basic national fee.
 - Application No. 10/509,489 was assigned.
 - The applicant believed the transmittal letter had been received within the thirty month period and therefore, unintentionally took no further action.
- 30 March 2005, the "Notification Of Abandonment" was mailed
- 7 April 2005, the "Notification Of Abandonment" was received by the applicant.
 - The applicant believed he had Two Months to file a request to revive the abandoned patent application from the receipt date of said notification, and worked diligently to earn the \$750.00 petition fee.
- 24 May 2005, a petition to revive the unintentionally abandoned patent was filed complete with the \$750.00 fee. The applicant unintentionally failed to provide the necessary form, Petition For Of An Application For Patent Abandoned Unintentionally Under 37 CFR 1.137 (b), being unaware that it was necessary given the letter of declaration of unintentional abandonment transmitting said request.

Thank you for your time and consideration in this matter. Please contact me directly if you require any further information to expedite this request and revive said application.

Sincerely,


Garth Whelen

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PTO/SB/21 (09-04)

Approved for use through 07/31/2006. OMB 0651-0031

U.S. Patent and Trademark Office; U.S. DEPARTMENT OF COMMERCE

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**TRANSMITTAL
FORM**

(to be used for all correspondence after initial filing)

Total Number of Pages in This Submission

Application Number	Serial No.:10/509,489
Filing Date	27 November 2003
First Named Inventor	Garth Wayne Whelen
Art Unit	PCT No.:PCT/CA02/01817
Examiner Name	Leonard Smith
Attorney Docket Number	NONE

RECEIVED**OFFICE OF PATENT
APPEALS**
OCT 20 2005**ENCLOSURES (Check all that apply)**

- | | | |
|--|---|---|
| <input type="checkbox"/> Fee Transmittal Form
<input type="checkbox"/> Fee Attached
<input type="checkbox"/> Amendment/Reply
<input type="checkbox"/> After Final
<input type="checkbox"/> Affidavits/declaration(s)
<input type="checkbox"/> Extension of Time Request
<input type="checkbox"/> Express Abandonment Request
<input type="checkbox"/> Information Disclosure Statement

<input type="checkbox"/> Certified Copy of Priority Document(s)
<input type="checkbox"/> Reply to Missing Parts/
Incomplete Application
<input type="checkbox"/> Reply to Missing Parts
under 37 CFR 1.52 or 1.53 | <input type="checkbox"/> Drawing(s)
<input type="checkbox"/> Licensing-related Papers
<input checked="" type="checkbox"/> Petition
<input type="checkbox"/> Petition to Convert to a
Provisional Application
<input type="checkbox"/> Power of Attorney, Revocation
Change of Correspondence Address
<input type="checkbox"/> Terminal Disclaimer
<input type="checkbox"/> Request for Refund
<input type="checkbox"/> CD, Number of CD(s) _____
<input type="checkbox"/> Landscape Table on CD | <input type="checkbox"/> After Allowance Communication to TC
<input type="checkbox"/> Appeal Communication to Board
of Appeals and Interferences
<input type="checkbox"/> Appeal Communication to TC
(Appeal Notice, Brief, Reply Brief)
<input type="checkbox"/> Proprietary Information
<input type="checkbox"/> Status Letter
<input type="checkbox"/> Other Enclosure(s) (please identify
below): |
|--|---|---|

Remarks

In response to your decision to dismiss the petition to revive the aforementioned patent. Hereby providing clearer details and filing documents outlining the nature of the unintentional delays attributed to said application. PETITION FOR REVIVAL UNDER 37 CFR 1.137 (b)

SIGNATURE OF APPLICANT, ATTORNEY, OR AGENT

Firm Name			
Signature			
Printed name	Garth Wayne Whelen		
Date	October 11, 2005	Reg. No.	

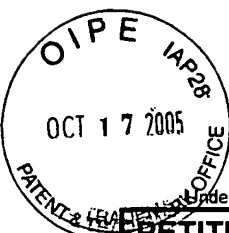
CERTIFICATE OF TRANSMISSION/MAILING

I hereby certify that this correspondence is being facsimile transmitted to the USPTO or deposited with the United States Postal Service with sufficient postage as first class mail in an envelope addressed to: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450 on the date shown below.

Signature			
Typed or printed name	Garth Wayne Whelen	Date	11 October 2005

This collection of information is required by 37 CFR 1.5. The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to 2 hours to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

If you need assistance in completing the form, call 1-800-PTO-9199 and select option 2.



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PETITION FOR REVIVAL OF AN APPLICATION FOR PATENT ABANDONED UNINTENTIONALLY UNDER 37 CFR 1.137(b)	Docket Number (Optional)
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First named inventor: Garth Wayne Whelen

Application No.: Serial No.:10/509,489

Art Unit: PCT/CA02/01817

Filed: 27 November 2003

Examiner: Leonard Smith

Title: EAR FLAPS FOR HELMETS

Attention: Office of Petitions
Mail Stop Petition
Commissioner for Patents
P.O. Box 1450
Alexandria, VA 22313-1450
FAX (571) 273-8300

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OFFICE OF PETITIONS

NOTE: If information or assistance is needed in completing this form, please contact Petitions Information at (571) 272-3282.

The above-identified application became abandoned for failure to file a timely and proper reply to a notice or action by the United States Patent and Trademark Office. The date of abandonment is the day after the expiration date of the period set for reply in the office notice or action plus an extensions of time actually obtained.

APPLICANT HEREBY PETITIONS FOR REVIVAL OF THIS APPLICATION

NOTE: A grantable petition requires the following items:

- (1) Petition fee;
- (2) Reply and/or issue fee;
- (3) Terminal disclaimer with disclaimer fee - required for all utility and plant applications filed before June 8, 1995; and for all design applications; and
- (4) Statement that the entire delay was unintentional.

1. Petition fee

- ☒ Small entity-fee \$ 750.00 (37 CFR 1.17(m)). Applicant claims small entity status. See 37 CFR 1.27.
- ☐ Other than small entity - fee \$ _____ (37 CFR 1.17(m))

2. Reply and/or fee

A. The reply and/or fee to the above-noted Office action in the form of petition letter to revive application with fee included (identify type of reply):

- ☒ has been filed previously on 24 May 2005.
- ☐ is enclosed herewith.

B. The issue fee and publication fee (if applicable) of \$ 460.00.

- ☒ has been paid previously on 29 September 2004.
- ☐ is enclosed herewith.

This collection of information is required by 37 CFR 1.137(b). The information is required to obtain or retain a benefit by the public which is to file (and by the USPTO to process) an application. Confidentiality is governed by 35 U.S.C. 122 and 37 CFR 1.11 and 1.14. This collection is estimated to take 1.0 hour to complete, including gathering, preparing, and submitting the completed application form to the USPTO. Time will vary depending upon the individual case. Any comments on the amount of time you require to complete this form and/or suggestions for reducing this burden, should be sent to the Chief Information Officer, U.S. Patent and Trademark Office, U.S. Department of Commerce, P.O. Box 1450, Alexandria, VA 22313-1450. DO NOT SEND FEES OR COMPLETED FORMS TO THIS ADDRESS. SEND TO: Mail Stop Petition, Commissioner for Patents, P.O. Box 1450, Alexandria, VA 22313-1450.

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3. Terminal disclaimer with disclaimer fee

- ☒ Since this utility/plant application was filed on or after June 8, 1995, no terminal disclaimer is required.
- ☐ A terminal disclaimer (and disclaimer fee (37 CFR 1.20(d)) of \$ _____ for a small entity or \$ _____ for other than a small entity) disclaiming the required period of time is enclosed herewith (see PTO/SB/63).

4. STATEMENT: The entire delay in filing the required reply from the due date for the required reply until the filing of a grantable petition under 37 CFR 1.137(b) was unintentional. [NOTE: The United States Patent and Trademark Office may require additional information if there is a question as to whether either the abandonment or the delay in filing a petition under 37 CFR 1.137(b) was unintentional (MPEP 711.03(c), subsections (III)(C) and (D)).]

WARNING: Information on this form may become public. Credit card information should not be included on this form. Provide credit card information and authorization on PTO-2038.


Signature

11 October 2005
Date

Garth Wayne Whelen
Typed or printed name

Registration Number, if applicable

50 Cramond Close SE, Calgary, Alberta.
Address

403.257.5466
Telephone Number

Canada T3M 1C1
Address

Enclosures: ☐ Fee Payment

☒ Reply

☐ Terminal Disclaimer Form

☒ Additional sheets containing statements establishing unintentional delay

☐ Other: _____

CERTIFICATE OF MAILING OR TRANSMISSION [37 CFR 1.8(a)]

I hereby certify that this correspondence is being:

☒ Deposited with the United States Postal Service on the date shown below with sufficient postage as first class mail in an envelope addressed to: Mail Stop Petition, Commissioner for Patents, P. O. Box 1450, Alexandria, VA 22313-1450.

☐ Transmitted by facsimile on the date shown below to the United States Patent and Trademark Office as (571) 273-8300.

11 October 2005
Date


Signature

Garth Wayne Whelen
Typed or printed name of person signing certificate